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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,592	05/25/2001	James Ching-Shau Yik	64747/12891	4154
23380	7590	06/28/2005	EXAMINER	
TUCKER, ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1475			DUONG, DUC T	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/865,592

Applicant(s)

YIK ET AL.

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6,7 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,7 and 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 2, 4, 6, 7, and 9-15 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 7 and 9-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Bordonaro et al (U.S. Patent 6,798,775 B1).

Regarding to claim 7, Bordonaro discloses a method of enforcing flow control forwarding data traffic over data networking facilities of private data networking environment, the method comprising the steps of determining an input port 502-510 on which a Payload Data Unit PDU (VLAN packet) was received, from a plurality of input

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ports 502-510 of a multi-ported data network (Fig. 5A col. 7 lines 11-14); irrespective whether each PDU (VLAN packet) carries a level of service specification (regardless of the type of VLAN packet), selectively assigning a predetermined level of service (priority) to the PDU (VLAN packet) if the input port 502-510 on which the PDU (VLAN packet) was received is designated as conveying data traffic of a particular access type (Fig. 5A col. 7 lines 16-29; noted each ports 502-510 is used for transporting a particular type of VLAN packet); and forwarding 530 the PDU (VLAN Packet) according to the level of service (priority) associated with the particular traffic access type (Fig. 5A col. 8 lines 17-20; the TCP function 530 transmits a particular VLAN type of packet based on the assigned priority).

Regarding to claims 9, 11, and 13, Bordonaro discloses querying a database 13,020 (Fig. 13 col. 13 lines 6-10) using as a key an input port identifier (VLAN ID) associated with the input port (Fig. 5A col. 7 lines 14-17).

Regarding to claim 10, Bordonaro discloses determining the access type (VLAN color) associated with the input port (Fig. 6 col. 8 lines 21-30).

Regarding to claim 12, Bordonaro discloses prior to assigning a predetermined level of service to the PDU, determine the predetermined level of service (Fig. 5A col. 7 lines 16-29).

Regarding to claim 14, Bordonaro discloses querying a database 13,020 (Fig. 13 col. 13 lines 6-10) using as a key the access type (VLAN ID reference a type of VLAN protocol) associated with the input port (Fig. 5A col. 7 lines 14-17).

Regarding to claim 15, Bordonaro discloses the access type (VLAN type of packet) is a public access (Fig. 5A col. 6 lines 63-67 and col. 7 lines 1-5; anyone of the VLAN type of packet read on a public access).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bordonaro in view of Bertagna (U.S. Patent 6,862,280 B1).

Regarding to claim 1, Bordonaro discloses a data network node 501 (Fig. 5A) enforcing flow control forwarding data traffic over data networking facilities of private data networking environment (col. 6 lines 27-40), the data network node 501 comprising a plurality of input ports 502-510, at least one input port being designated as a public access input port (Fig. 5A col. 6 lines 63-67 and col. 7 lines 1-5; anyone port of 502-510 read on a public access input port); a service level specifier (a type of VLAN protocol) associated with the public access input port (anyone port of 502-510) specifying predetermined level of service (priority) for the conveyance of public access data traffic (Fig. 5A col. 7 lines 16-29; noted the public access data traffic is identified as VLAN packet).

Bordonaro fails to teach for a lookup table providing associations between inputs port and service level specifiers.

However, Bertagna discloses an apparatus for forwarding data comprising a lookup table 231 used for determining an outbound tag priority (service level specification) based on an inbound tag priority (included port identifier), see Fig. 8 col. 6 lines 39-42).

Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to include a lookup table as taught by Bertagna in Bordonaro's system to determine how fast the packet should be processes relative to other packets.

Regarding to claim 2, Bordonaro discloses the service level specifier further designates the at least one input port as an input port conveying public access data traffic 502-510 (Fig. 5A col. 6 lines 63-67 and col. 7 lines 1-5).

Regarding to claim 4, Bordonaro discloses each one of the plurality of input ports is associated one of a plurality of service level specifiers (Fig. 5A col. 6 lines 63-67 and col. 7 lines 1-5; each plurality of input ports is associated with one of a plurality of VLAN protocols).

Regarding to claim 6, Bordonaro discloses a lookup table 13,020 is included in a switching database 13,018 associated with the data network node (Fig. 13 col. 13 lines 6-10).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-5:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DD

DD

*Ricky Ngo*  
RICKY NGO  
PRIMARY EXAMINER

*8/25/05*